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THE CASE CLUB COMPETITION....1938-39

for
first- and second-year
law students.

University of Michigan
Law School.

Student Committee:

Bruce Smith, C.J.
Clifford Christenson, J.
Ralph Helper, J.
Robert Keck, J.
Thomas Munson, J.

Faculty Advisory Committee:

Professor Blume
Professor Waite
Professor Tracy

HISTORY OF THE ORGANIZATION.

As the Case Club enters upon its sixteenth year of activity, it might be well to pause and consider its history, in the hope that this valuable work may better be advanced. The first records available are for the years 1923 and 1924. At that time Paul Leidy was the senior adviser for the Cooley Club, which appears to have been the only club in existence, and hence the nucleus around which the present competition has been built. If there were others they had a separate organization and their records have not survived. The cases, during the first few years, were argued before juries of students; the questions of fact being argued, as well as questions of law. An incentive of \$75.00 was offered to seniors who were successful in the activity. In the Cooley Club there were sixteen members--as compared with the 330 members in the five first-year and four second-year clubs today. In 1924 the membership increased to twenty-four. And in 1925 the case club system, as it exists today, was formally organized by Professors Holbrook, Stason, and Durfee. In that year the Marshall, Kent, Story, and Holmes Clubs were organized. In a statement recorded in 1925 it was written: "The purpose of these clubs is to furnish an extra-curricular opportunity for the preparation of and argument of concrete law cases, and it is the thought of those behind them that they would someday supplant the course in Practice Court." The program adopted called for intra-club arguments between the freshmen members, and for inter-club arguments between the junior members, each team to be composed of two men. To stimulate interest in competition, it was announced that the two leading juniors each year in each club would represent their club in a final competition and that a prize would be awarded to the winning team.

It was at this time that the firm of Bulkley, Ledyard, Dickinson, and Wright, of Detroit, gave the sum of \$4,000 to the Law School for the use of the Case Clubs, in memory of their former partner, Henry M. Campbell, '78 Law. From the income of this gift, \$150 a year is utilized to reward winning counsel. Although this competition began in 1925, the first record is of 1927. The record of the Henry M. Campbell awards is as follows:

- | | |
|------|---|
| 1927 | First: W. C. Dixon and L. R. Jones
Second: C. J. Riddering and L. M. Birrell |
| 1928 | First: W. A. Miller and G. B. Christensen
Second: R. M. Kerr and J. I. Johnson |
| 1929 | First: R. J. Clendenin and Thomas Koyka
Second: N. C. Bowerson and W. H. Stockwell |
| 1930 | First: Jesse R. Orth and James H. Spencer
Second: Maxwell L. Rubin and Harvey L. Bielfield |
| 1931 | First: Paul G. Kauper and Morris Zwerdling
Second: LeRoy Mote and Lee Van Blargan |

- 1932 First: Leslie A. DeBow and Robert Gordon
Second: Charles E. Johns and Henry Morrison
- 1933 First: Willard M. Avery and Robert A. Kelp
Second: Nathan Levy and Victor Rabinowitz
- 1934 First: John T. Damm and James H. Dennison
Second: Michael L. Lewisohn and Milton C. Selander
- 1935 First: Erle A. Kightlinger and Frank Barnaka
Second: Patrick J. Quealy and Donald L. Quaife
- 1936 First: Clifford L. Ashton and Elbert Gillion
Second: Jack Weissman and William A. McClain
- 1937 First: Richard Cross and Daniel Gluck
Second: James Mehaffy and Milton Kramer
- 1938 First: Bruce Smith and Ralph Helper
Second: Robert C. Keck and Clifford C. Christenson.

THE ORGANIZATION TODAY.

The competition is now conducted by a student Case Club Committee, selected on the basis of competition during their junior year in the club work. Participation in the competition is open to all freshmen and junior law students.

The fundamental purpose of the Case Club Competition is to give an opportunity to coordinate substantive law with practical application to a concrete case. Three features cannot be over-emphasized, namely, the experience in writing legal briefs, orally arguing cases before a court, and learning the rudiments of legal bibliography. In addition, the faculty have seen fit to allow those students completing two successful years in Case Club to be eligible for the short-term course in Practice Court during their senior year.

The first- and second-year students are divided into groups of four, two in each group representing the plaintiff and two the defendant. To each group is given a statement of facts involving debatable principles of law in fields in which they are unfamiliar. No procedural or pleading questions are involved in the preparation or argument of the case, as the emphasis is placed primarily on the substantive elements. At the time of the argument of the case, the students representing each side are required to present to the presiding judge a complete and adequate brief on the law involved, prepared in accordance with approved legal practice and showing evidence of diligent use of the resources of the library. It is expected that the authorities bearing on the case will be exhaustively studied and effectively presented. The oral argument covers the same scope as the briefs, and the students participating are expected to show familiarity with all the important authorities relating to the questions to be discussed, without too frequent use of briefs, memoranda, or books. The cases assigned to the Case Club contestants cover all principal fields of law and equity.

Those students who are outstanding in the first round of cases are selected to compete in the semi-final competition in the second semester. Out of the group of first-year men who are successful in their semi-final cases, five are chosen to serve during their junior year in the capacity of junior advisers to the Case Club Executive Committee. The eight most proficient juniors compete in the semi-finals, and five of this number are selected to serve as the Case Club Executive Committee and to serve as judges during the ensuing year. The four winners in the semi-final cases during their junior year compete for the Henry M. Campbell award.

The composition of the bench for the first-year men consists of the senior justice sitting with an associate justice chosen from among the senior class. For the second-year cases, two senior justices sit with a faculty justice. The justices for the Henry M. Campbell award consist of various Supreme Court and Federal Court justices, who are invited here for this impressive occasion.

An innovation is being tried during the year 1938-39 in the second-year Case Clubs. Heretofore, the plaintiffs and the defendants have submitted their briefs at the same time, creating an element of "surprise" which has been considered a disadvantage by both the Case Club Executive Committee and the Faculty Advisory Committee. To eliminate this unrealistic aspect of the procedure, and to allow the respective counsel to arrive at fundamental issues and thus better develop their cases from a substantive standpoint, the second-year plaintiffs will submit their briefs six days before trial and the defendants two days before trial. During the first year that this is to be tried, the plaintiffs will not be allowed to file a reply brief, but this discrepancy will be considered in the judgment rendered. Both counsel will receive their statement of facts at the same time and the time of the submission of their final trial briefs is the only change. If the experiment is successful, this change will be used in the semi-final cases during the second semester.

RULES AND REGULATIONS

(These rules apply to the first semester trials only.)

1. ASSIGNMENT OF ATTORNEYS.

At the beginning of the first semester four students of the same class will be assigned as attorneys to each case. Any two students indicating their preference to be grouped together for work will be so assigned, subject to the discretion of the Case Club Executive Committee. Students wishing to compete but who are unable to group themselves will be assigned to groups by the committee.

2. AUTHORITIES CONTROLLING IN MATTERS OF SUBSTANTIVE LAW.

All questions of substantive law shall be decided as though they were cases of first impression in the jurisdiction, the decisions and statutes of no state being given authoritative force exceeding those of other jurisdictions.

3. JURISDICTION OF THE CASE CLUB COURTS.

The jurisdiction will be understood to be that of a fictitious common law state, all cases being of first impression. No decisions or records of the Case Club Courts will be used in later controversies.

4. PROCEDURE AND PLEADING.

The emphasis in this competition is to be placed on the substantive elements involved. It is believed that any technical questions of pleading and procedure will overlap other courses and activities in the Law School and obscure the primary objective of the work. All such questions should not be argued except as indicated by these rules.

5. TIME OF PROCEEDINGS.

Dockets in the five first-year clubs and in the four second-year clubs will be posted as soon after the beginning of the fall semester as possible. During the first semester, all the first-year briefs shall be submitted not later than two days preceding the trial date. The second-year plaintiffs' brief shall be submitted on the sixth day preceding the trial date, and the defendants' brief on the second day preceding the posted trial date. All briefs shall be submitted at the library desk at 1:00 o'clock on the day scheduled. Saturdays, Sundays, and holidays are to be counted as regular days in this computation, subject to change by the Case Club Executive Committee. This rule will be enforced, and the unhesitating cooperation of all contestants is requested.

6. PREPARATION OF THE LEGAL BRIEF.

The attorneys for each party will be expected to prepare a full and accurate brief upon the law involved in their case, with careful analysis of the leading cases and ample citation of authorities, accompanying each case cited with the date when it was decided. The first-year students may use not more than ten authorities, and the second-year students fifteen authorities. (Individual decisions, law review articles, A.L.R. notes all

counting as one citation.) Printed directions and suggestions for the preparation of the law brief may be had at the Case Club office in Hutchins Hall. Professor Coffey's booklet is invaluable. Cite the regional reporter after the state report; e.g., 24 N.Y. 30; 10 N.E. 40. A case may be cited more than once, and still count as the use of only one authority.

7. FORM OF BRIEFS.

The briefs must be typewritten on standard legal paper and bound at the top by non-removable clips. The typing must be double spaced, with the exception of quotations, and on one side of the paper only. Covers may be acquired at the local book stores. The brief shall contain, INTER ALIA, the names of the parties, the names of the opposing counsel, and a statement as to whether it is the brief of the plaintiff (or appellant or demurrant) or the respondent. Briefs for the first-year trials should not exceed ten typewritten pages, exclusive of the statement of facts, which must appear on the first page. Second-year briefs should not exceed fifteen pages.

8. FILING OF BRIEFS AND NUMBER REQUIRED.

The first-year students will submit two briefs marked plainly "Court's Copy" and one copy (preferably two) plainly marked "Opponent's Copy" at the library desk on the day scheduled. The second-year students will submit three briefs marked "Court's Copy" and one copy (preferably two) marked "Opponent's Copy." These briefs shall be submitted at 1:00 o'clock on the day scheduled.

9. TRIALS.

Two men will speak on either side in the order they shall determine. Counsel should leave a speaking-list on the bench preceding the trial. The plaintiff (or appellant or demurrant) will open and close the argument. The time allotment will be as follows, subject to the absolute discretion of the justices to enlarge or restrict the time of any of the counsel: first-year students--20 minutes between the two men; and second-year students--24 minutes between them. The plaintiffs should so divide their time as to be able to give a rebuttal. Time spent by a speaker in answering questions asked by the court shall not be counted. The members of each side may divide their time as they please. Both speakers for the plaintiff may speak in the presentation of the argument, and both may speak in the rebuttal, if they choose, subject to the time limit supra. Each speaker must present at least one point, however, in either the presentation or rebuttal. Cases not cited in the brief cannot be raised for the first time on oral argument.

10. JUDGMENT.

At the close of the argument in each case, the justices will announce their judgment, orally stating reasons for their judgment. Their judgment shall consist of two points: the substantive law judgment, and the merits, which shall include the brief and the oral argument. The justices invite the competitors to come to the Case Club office in Hutchins Hall for personal criticism and suggestions.

11. JUSTICES.

The composition of the bench for the first-year cases is the senior justice alone, or with associates chosen in his discretion from the senior class in the Law School. In the second-year cases, one senior justice, one senior of Law Review rank, and one faculty justice will sit. The semi-final justices will be chosen from the faculty.

12. INFORMATION.

The first-year students will be able to gain information from the junior adviser of their club or members of the Case Club Executive Committee. No questions of law will be answered by the advisers or the professors. The second-year students may consult professors only if opposing counsel be given an opportunity to be present at the interviews. Office hours for the Executive Committee will be at 1:00 o'clock to 1:50 o'clock, Monday through Friday, in the Case Club office in Hutchins Hall. All disputes as to facts shall be settled within two days after the issuance of the facts.

13. BULLETIN BOARDS.

The Case Club bulletin board, located on the second floor of Hutchins Hall, shall be the regular channel of communication with the students, who must take notice of its contents. Notice posted thereon is conclusively deemed to be personal notice to the parties concerned. The excuse of failure to observe any notice there posted will not be accepted.

14. REPORT OF TRIAL.

The justice hearing the case must, within forty-eight hours, file a report of the case, including a grade for each man competing. This is to determine the students who will be permitted to take the short term of Practice Court.

15. THE TRIALS OF THE CASE CLUBS ARE ALWAYS OPEN TO SPECTATORS.

(Rules for the semi-final trials are to be arranged by the Executive Committee during the current year.)